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Trial Affidavit of Tracy Garcia

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

THIS DOCUMENT RELATES TO:
ALL CLASS ACTIONS

MDL No. 1456

Civil Action No. 01-cv-12257-PBS

Judge Patti B. Saris

TRIAL AFFIDAVIT OF TRACY GARCIA

I, Tracy Garcia, pursuant to 28 U.S.C. § 1746, on oath, depose and state as follows:

1. My name is Tracy Lynn Garcia. I live in Oak Lawn, Illinois. I am 35 years old and am married with one son.

2. I was diagnosed with breast cancer on October 28, 2003. I had surgery and underwent chemotherapy and am now in remission.

3. I have worked at Dominick's Finer Foods for almost sixteen years. For the last eleven years I have been a customer service representative, and before that I was a cashier and supervisor.

4. I am a member of the United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund ("UFCW"), and have been since I began working at Dominick's.

5. I get medical benefits through my UFCW membership, which offers Dominick's employees a Preferred Physician Organization ("PPO") plan administered by Blue Cross Blue Shield of Illinois ("BCBS IL"). According to my memory, UFCW has used BCBS IL as the health plan administrator since I started working at Dominick's.

6. It is my understanding that BCBS IL pays 80% of my medical expenses, and I am responsible for the remaining 20%. I am not responsible for a co-payment at the time services are rendered. Before October 31, 2005, UFCW members had a \$200 deductible per year, but it has since been increased to \$250.

7. I have no other health or medical insurance other than this BCBS IL policy. I am not enrolled in Medicare, Medicaid, or Social Security, nor have I ever received benefits under those programs. I do not have any other supplemental insurance.

8. Each time I went to see my health care provider, I would receive a bill reflecting the portion BCBS IL paid and the portion that was my responsibility. Oftentimes I could not afford to pay my entire portion, but would make payments towards my balances once my household expenses had been taken care of. I have since managed to payoff my entire balance resulting from my chemotherapy.

9. To the best of my knowledge, during the time period alleged in the Complaint, I was administered and paid for the following drugs: Rubex, Cytosan, Albuterol, Neulasta, Heparin Sodium, Sodium Chloride, Anzemet and Dexamethasone Sodium. These drugs were used in treating my breast cancer, except for the Albuterol, which was used to treat a bronchial infection.

10. I do not know how medical providers determine the amount they charge for their services and prescription drugs, nor do I know how BCBS IL determines how much it is willing to pay for those services or drugs.

11. I do not know what my healthcare providers paid for any of the drugs I was administered as part of my chemotherapy.

12. The bills and statements I received from my doctors and BCBS IL do not show what the AWP is for the drugs I was given. There was no way for me to have known, as a patient, whether certain charges for a given medication were based on AWP or where the prices came from or were calculated.

13. I first heard of AWP, or Average Wholesale Price, from my involvement in this lawsuit.

14. It is my personal opinion that whatever system is used as a basis for calculating my co-payment should be fair and accurate and not be subject to manipulation.

15. I took Rubex and Cytosan. I understand that the manufacturer of those drugs is alleged to have published prices that were used as a basis for calculating my payments and then secretly offered its drugs at a lower price, providing a profit for the doctor. I understand that my payments were based on the higher published prices. If these facts are true, I feel it is unfair for drug companies to publish prices that have no real meaning or which result in my paying higher prices.

16. I understand that defendants say that their published prices are like a sticker price on a car. However, to me a drug company that creates a false price knowing that my life depends on the drugs and that I must pay for them stands in different shoes than a car manufacturer. In addition, I am not aware of any situation where a car manufacturer offers discounts of 30%, 60% or even over 300%.

17. I understand that case to be about drug manufacturers overcharging for their medicine, including those I received and paid for in connection with the treatment of my breast cancer.

18. I have reviewed portions of the complaint in this case and had no knowledge of anything I read prior to becoming involved in this litigation.

19. I recognize that the drug companies should make a profit, but only a reasonable one. They have a responsibility to price their drugs fairly.

20. I was harmed by defendants' actions by having to overpay for these drugs, and because the money I had to spend on the drugs was taken away from other important family needs, such as saving for my son's education.

I declare under penalty of perjury that the foregoing is true and correct.

Date: October 26, 2006

Tracy Garcia
Tracy Garcia

